



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[BLM_UT_FRN_MO4500172882]

Final Supplementary Rule for Roped and Aerial Activities in the Moab Canyons Special Wildlife Area (in and near Mineral and Hell Roaring Canyons) in Grand County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rule.

SUMMARY: The Bureau of Land Management (BLM) is finalizing a supplementary rule for the Moab Canyons Special Wildlife Area (in and near Mineral and Hell Roaring Canyons) in Grand County, Utah, which prohibits rock climbing except when and where permitted, prohibits other roped and aerial activities, and prohibits the construction or installation of temporary structures. This rule will protect vital wildlife habitat from the impacts of roped and aerial recreational activities.

DATES: This final supplementary rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may direct inquiries to the BLM Moab Field Office, 82 East Dogwood Avenue, Moab, UT 84532, or blm_ut_mb_mail@blm.gov. The final supplementary rule and accompanying environmental documents are available for inspection at the BLM Moab Field Office at the address listed above and on the ePlanning website: <https://eplanning.blm.gov/eplanning-ui/project/1504945/510>.

FOR FURTHER INFORMATION CONTACT: Jennifer Jones, Moab Field Office Assistant Manager, 82 East Dogwood Avenue, Moab, Utah 84532, (435) 259-2100, or blm_ut_mb_mail@blm.gov. Individuals in the United States who are deaf, deafblind,

hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion of Public Comments
- III. Discussion of Final Supplementary Rule
- IV. Procedural Matters
- V. Final Supplementary Rule for the BLM Moab Field Office

I. Background

The BLM is establishing this final supplementary rule under the authority of 43 CFR 8365.1-6, which allows state directors to establish supplementary rules for the protection of persons, property, public lands, and resources. This final supplementary rule applies to public lands managed by the Moab Field Office. A map of the management area and boundaries can be obtained by contacting the Moab Field Office (see **ADDRESSES** section above).

The final supplementary rule will be available for inspection in the Moab Field Office or on the ePlanning website.

The public lands managed by the BLM Moab Field Office in southeastern Utah are a domestic and international tourist destination hosting three million visitors per year. The Moab Canyons Special Wildlife Area, which consists of 10,044 acres in and along the walls and rims of Mineral and Hell Roaring Canyons as well as on the canyon walls and rims along the Green River corridor connecting these two canyons, provides important habitat for the Mexican spotted owl (a federally threatened species); golden eagles and other raptors; Utah's only endemic herd of desert bighorn sheep; and other wildlife. In

recent years, roped and aerial recreational activities have increased in these canyons, putting wildlife and their vital habitats at risk. The goal of this supplementary rule is to protect vital wildlife habitat from the impacts of roped and aerial recreational activities. In June 2021, the BLM issued a Decision Record and Finding of No Significant Impact that prohibited rock climbing except when and where permitted; prohibited other roped and aerial activities; and prohibited the construction or installation of temporary structures in the Moab Canyons Special Wildlife Area. The Decision Record created a permit system that allows a limited amount of rock climbing, seasonally, on specific climbs in designated areas. More specifically, the permit system prohibits rock climbing permits during critical wildlife seasons and otherwise limits the number of permits to 35 per year. In accordance with 43 CFR 2932.11(b)(1), the Decision Record required that all persons must obtain a permit to rock climb in the special area. The Decision Record also outlined the need to establish a corresponding supplementary rule for the special area. The Decision Record was supported by an environmental assessment (EA) that analyzed two action alternatives: a total year-round ban on aerial and roped activities, and the institution of a limited seasonal permit system allowing some rock-climbing activity at specified locations. During the 30-day public comment period for the EA, the BLM received 13 comments. Seven comments supported the total year-round ban on aerial and roped activities in Mineral and Hell Roaring Canyons. Six commenters opposed some or all of that proposal and expressed an interest in greater access for roped and aerial activities. The BLM considered these public comments in the decision-making process.

II. Discussion of Public Comments

The BLM published the proposed supplementary rule in the *Federal Register* on January 31, 2023 (88 FR 6217). During the 60-day public comment period on the proposed supplementary rule, the BLM received 19 comments; four were fully supportive of the rule and three were opposed. One commenter asked that the restrictions not apply to

permitted events and another commenter asked for voluntary seasonal restrictions. The remaining 10 commentors asked that highline use (an aerial activity involving walking across rope or wire between two high points) be allowed on a seasonal basis to access the Colorado Bowl (also known as the Veggie Bowl).

III. Discussion of Final Supplementary Rule

The final supplementary rule prohibits rock climbing except when and where permitted; prohibits other roped and aerial activities; and prohibits the construction or installation of temporary structures in the Moab Canyons Special Wildlife Area (in and near Mineral and Hell Roaring Canyons). This rule will protect vital wildlife habitat from the impacts of roped and aerial recreational activities.

Rock climbing and other roped and aerial activities allow human access into otherwise inaccessible habitats. Other forms of recreation (e.g., hiking, driving, camping, horseback riding) and other public land uses, such as livestock grazing, cannot reach those areas.

Rock climbing and other aerial and roped activities adversely affect the threatened Mexican spotted owl, golden eagles, and other raptors, because rock climbers and aerialists access the cliffs used by these species for nesting, foraging, and resting. In addition, desert bighorn sheep use the talus slopes below the cliffs accessed by rock climbers and aerialists as escape terrain for the critical life functions that make herd viability possible. Restrictions have already been placed on motorized vehicle use, camping, livestock grazing, and mineral development in these canyons to protect these species through the 2008 Moab Resource Management Plan.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This final supplementary rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866 as amended by Executive Order 14094. The final supplementary rule will not have an

annual effect of \$200 million or more on the economy. It will not adversely affect, in a material way, the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities. The final supplementary rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The final supplementary rule will not materially alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights or obligations of their recipients; nor does it raise novel legal or policy issues. The final rule merely establishes rules of conduct for public use on a limited area of public lands.

National Environmental Policy Act

This final supplementary rule is consistent with and necessary to properly implement the decision, which was analyzed in EA DOI-BLM-UT-Y010-2020-0068-EA. The approved environmental analysis is available for review at the physical and online locations identified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended (5 U.S.C. 601–612), to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The final supplementary rule merely establishes a rule of conduct for public use on a limited area of public lands. Therefore, the BLM has determined the final supplementary rule will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

The final supplementary rule is not “major” as defined under 5 U.S.C. 804(2). The final supplementary rule merely establishes rules of conduct for public use on a limited area

of public lands and will not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

The final supplementary rule will not impose an unfunded mandate on State, local, or Tribal governments in the aggregate, or the private sector of more than \$100 million per year; nor will it have a significant or unique effect on small governments. The final supplementary rule will have no effect on State, local, or Tribal governments and will impose no requirements on any of these entities. The final supplementary rule will merely establish a rule of conduct for public use on a limited selection of public lands and will not affect Tribal, commercial, or business activities of any kind. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

The final supplementary rule does not have significant takings implications, nor is it capable of interfering with constitutionally protected property rights. The final supplementary rule merely establishes a rule of conduct for public use on a limited area of public lands and will not affect protected property rights. Therefore, the Department of the Interior has determined the final supplementary rule will not cause a “taking” of private property or require preparation of a takings assessment under this Executive order.

Executive Order 13132, Federalism

The final supplementary rule will not have a substantial direct effect on the States; the relationship between the Federal Government and the States; nor the distribution of power and responsibilities among the various levels of government. The final supplementary rule does not conflict with any State law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined the supplementary

rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Department of the Interior Office of the Solicitor has determined the final supplementary rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the order.

Executive Order 13175, Consultation and Coordination with Tribal Governments

In accordance with Executive Order 13175, the BLM considered consultation and coordination with Tribal governments in the development of the EA, which forms the basis for the final supplementary rule. It was determined the EA's proposed action did not have Tribal implications and formal consultation was not conducted.

Energy Supply, Distribution, or Use

Under Executive Order 13211, the BLM has determined the final supplementary rule will not comprise a significant energy action and that it will not have an adverse effect on energy supplies, production, or consumption.

Paperwork Reduction Act

The final supplementary rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* Federal criminal investigations or prosecutions may result from this rule, and the collection of information for these purposes is exempt from the Paperwork Reduction Act, 44 U.S.C. 3518(c)(1).

Authors

The principal author of this final supplementary rule is Kathleen Stevens, outdoor recreation planner, Moab Field Office, Bureau of Land Management

V. Final Supplementary Rule for the BLM Moab Field Office

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740 and 43 CFR 8365.1-6, the Utah State Director establishes the following supplementary rule:

1. Roped and aerial activities are prohibited within the Moab Canyons Special Wildlife Area, except for permitted rock climbing.
2. All persons must be in possession of a permit to engage in rock climbing within the Moab Canyons Special Wildlife Area.
3. The construction or installation of temporary structures is prohibited within the Moab Canyons Special Wildlife Area.

Definitions

Roped Activities: Activities involving ropes, cable, vectran, rock climbing aids, webbing, anchors, or any other similar materials. Activities include: ziplining, high-lining, slacklining, rope-swinging, and other activities using the roped materials listed and other associated equipment.

Aerial Activities: Sporting pursuits which include “buildings, antennae, spans, and earth” (BASE) jumping, catapulting, paragliding, paramotoring, parachuting, skydiving, drone launching, aerial delivery, or other activities that involve aerial delivery, recovery, or shuttle.

Rock climbing: A sport or technique in which participants climb up, down, or across natural rock formations, usually with ropes and other equipment. This also includes free-soloing and bouldering.

Penalties

On public lands under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), and 43 CFR 8360.0-7, any person who violates this supplementary rule may be tried before a U.S. magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months or both. Such violations may also be subject to enhanced fines provided for by 18 U.S. C. 3571.

Exemptions

Any Federal, State, local, or military persons acting within the scope of their duties, and members of an organized rescue or firefighting force in performance of an official duty, are exempted from this supplementary rule.

Gregory Sheehan

State Director

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